

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ALAN DONNELLY, on behalf of himself and others similarly situated,)	
Plaintiff,)	09 C 2264
)	Judge Guzman
v.)	
)	
NCO FINANCIAL SYSTEMS, INC.,)	JURY DEMANDED
Defendant.)	
)	

PLAINTIFF'S SECOND MOTION TO COMPEL

Plaintiff respectfully requests that this Court order NCO Financial Systems, Inc. to produce proper native format versions of emails and other materials in discovery.

In support of this motion, plaintiff states:

1. The TCPA makes it illegal for anyone to make autodialer or prerecorded message calls to cell phones. A defendant may assert a prior express consent affirmative defense.
2. Defendant NCO Financial Systems, Inc. ("NCO") made 128 million autodialed and/or prerecorded message calls between August 2008 and October 2009, without regard to whether the recipient's phone was a cell phone and without regard to prior express consent.
3. On November 30, 2009, NCO produced a series of emails and other documents relating to its autodialer and prerecorded messages. Approximately three hundred pages of the production are cut off at the half-page mark or are so crookedly copied that materials are cut off. Further, it does not appear that any email attachments at all have been produced.
4. Plaintiff's counsel emailed defense counsel twice regarding these issues, on December 1, 2009, and January 14, 2010, and has not received a substantive response. Plaintiff

has requested the emails in native format, because NCO is apparently not able (or is unwilling) to produce proper pdf copies. Further, the emails have been produced so that they are strung together and it is difficult to tell where one email or document ends and the next begins. Native copies would alleviate any need for photocopying, and would easily cure these deficiencies.

5. The parties have depositions scheduled for January 21, 2010; plaintiff requests that NCO produce these documents in proper format in advance of the depositions.

WHEREFORE, plaintiff respectfully requests that this Court order NCO Financial Systems, Inc. to produce proper native format versions of emails and other materials in discovery.

Respectfully submitted,

/s/ Alexander H. Burke

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